

## VILLAGE OF LAKE PARK MINOR CURFEW ORDINANCE

The purpose of this article is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under the age of sixteen (16) years in the Village of Lake Park. The minor curfew ordinance is intended to reinforce and promote the role of the parent in raising and guiding children, and promote the health, safety, and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned. This article is also being enacted under the authority of and pursuant to North Carolina General Statute Section 160A-198.

### Sec. 5-1. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

1. *Direct route*: The shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or stop along the way.
2. *Emergency*: An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member of the juvenile regardless of whether the juvenile's action is taken in order to prevent death or serious bodily injury.
3. *Establishment*: Any privately owned place of business operated for profit to which the public has access or is invited including, but not limited to, any place of amusement or entertainment.
4. *Guardian*: A person who is court-appointed to be the guardian of a juvenile or a sibling who is 18 years of age or older.
5. *Juvenile*: Any person under the age of sixteen (16) years.
6. *Owner/Operator*: Any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership and the officers of a corporation.
7. *Parent*: A person who is a natural parent, adoptive parent, foster parent or step-parent of another person, or a person to whom legal custody of another person has been given by court order.
8. *Public place*: Any place that is generally open to and used by the public or a substantial group of the public, whether it be publicly or privately owned, including but not limited to, streets, sidewalks, highways, alleys, rights of way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds,

places of business and amusement, playgrounds, parks, similar areas that are open to the public and other common areas open to or accessible to the public.

9. *Remain:* To linger or stay in a public place, or to fail to leave the premises when requested to do so by a law enforcement officer, or to fail to leave the premises of an establishment when requested to do so by the owner/operator or employee of the premises.
10. *Restricted hours:* The time of night referred to herein is based upon the prevailing standard time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the Village of Lake Park, North Carolina. Restricted hours shall mean:
  - a. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and,
  - b. 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

#### **Sec. 5-2. Offenses.**

Except as provided by subsection 5-3, the following offenses constitute a violation of this article.

1. A juvenile commits an offense by being present in or remaining in any public place or on the premises of any establishment within the Village during the restricted hours.
2. A parent or guardian of a juvenile commits an offense if he knowingly permits, or by insufficient control, allows the juvenile to remain in any public place or on the premises of any establishment within the Village during the restricted hours. The term "knowingly" includes knowledge that a person should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.
3. The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a juvenile to remain upon the premises of the establishment during the restricted hours. The term "knowingly" includes knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an establishment. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's or employee's position should have known that the patron was a juvenile in violation of this article.
4. It shall be a violation of this article for any person sixteen (16) years of age or older to aid or abet a juvenile in the violation of subsection (1).
5. It shall be a violation of this article for a parent or guardian to refuse to take custody during the restricted hours of a juvenile for whom the parent or guardian is responsible.

**Sec. 5-3. Exceptions.**

A juvenile who is in a public place or establishment during the restricted hours shall not be in violation of this article if the juvenile is:

1. Accompanied by his parent or guardian.
2. Accompanied by an adult eighteen (18) years of age or older authorized by the parent or guardian of such juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area.
3. On an errand, using a direct route, at the direction of the juvenile's parent or guardian until the hour of 12:30 a.m.
4. Occupying a motor vehicle which is being operated on a public right-of-way or alleyway.

**Sec. 5-4. Defense.**

It is a defense to prosecution under section 5-2(3) that the owner, operator, or employee of an establishment promptly notified the Union County Sheriff's Department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

**Sec. 5-5. Enforcement.**

1. Before taking any enforcement action under this ordinance, a Law Enforcement Officer shall ask the apparent offender's age and reason for being in the public place or establishment during restricted hours.
2. The Law Enforcement Officer shall not prepare an incident/investigation report, issue a citation, make an arrest of an adult or take a juvenile into custody under this article unless the officer has probable cause to believe that an offense has occurred and that, based on any response and other circumstances, no exception or defense in section 5-3 or 5-4 is present.

**Sec. 5-6. Penalties.**


- a. A juvenile who violates any provision of this article is guilty of a misdemeanor and is, therefore, subject to being adjudicated delinquent. The court may, in its discretion, impose any dispositional alternative(s) that are provided in the North Carolina Juvenile Code for any juvenile who is adjudicated delinquent pursuant to this Ordinance. A violation of this provision by a juvenile shall be considered a class three misdemeanor as set forth in N.C.G.S. Section 14-4.
- b. Any person other than a juvenile who violates any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine not to exceed one hundred dollars (\$100.00), and imprisonment in the discretion of the court in accordance with N.C.G.S. Section 14-4.

**Sec. 5-7. Severability.**

If any section, subsection, sentence, term or exception of this article, or any application thereof to any person or circumstance is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of any remaining portion of this article or its application to any other person or circumstance. The Village Council does not intend a result through the enforcement of this article that is absurd, impossible of execution or unreasonable. Council intends that the article be held inapplicable in such cases, if any, where its application would be unconstitutional under the Constitution of the State of North Carolina or under the Constitution of the United States of America.

Sec. 5-8 through 5-99. Reserved.

Amended this the 14<sup>th</sup> day of OCTOBER, 2003.



John H. Ross, Mayor

Attested:



Sarah R. Barbour, Village Clerk